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**RESPONSE TO  
RESTRICTION  
REQUIREMENT AND  
ELECTION OF SPECIES**

Address to:  
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Attorney Docket	6514-090US1
First Named Inventor	Ruoying Tan et al.
Application Number	09/803,317
Filing Date	March 9, 2001
Group Art Unit	1639
Conformation No.	7596
Examiner Name	Tomas H F Friend
Title	"Method for Identification of cDNAs Encoding Signal Peptides"

Sir:

This communication is responsive to the Restriction Requirement/Election mailed May 1, 2003, which set a one month period for response, making a response due June 1, 2003.

**Restriction Requirement**

The Office Action sets forth a Restriction Requirement requiring election of one of the following groups of claims:

- Group I: Claims 1-17, drawn to a method of identifying a nucleic acid encoding a signal sequence;
- Group II: Claims 18-22, drawn to a high throughput method of identifying cDNA which encodes a secreted protein; and
- Group III: Claims 23-26, drawn to a vector for identifying a cDNA insert encoding a protein.

**Response to Restriction Requirement**

Applicants hereby elect to prosecute the claims of Group II, claims 18-22, with traverse.

Applicants expressly reserve the right under 35 USC §121 to file a divisional application directed to the non-elected subject matter during the pendency of this application.

Traverse is based on the inclusion of claims 21 and 22 in Group II, rather than Group I. The Examiner's distinction between Groups I and II appears to focus on the claims of Group II being directed to a high-throughput method. Claims 21 and 22 are more similar to the subject matter of the claims of Group I. Inclusion of claims 21 and 22 in Group I and examination of these claims in this Group would not pose an undue burden, since searches to identify art relevant to the claimed subject matter of Group I would also be relevant to the subject matter of claims 21 and 22.

Applicants respectfully request that claims 21 and 22 be joined in Group I, and all of claims 1-17 and 21-22 be examined in a single application.

#### **Election of Species Requirement**

In addition to the restriction requirement, the Examiner has also required that applicants make a species election with respect to the "ultimate species of vector" that identifies the promoters and leaderless secretable selection protein presenting and encoded by the vector. At applicants' request, the Examiner kindly clarified that election of a species of each of the following was required:

- 1) a vector
- 2) a promoter
- 3) a leaderless secretable protein

#### **Response to Restriction Requirement**

Applicants hereby elect the following species with traverse:

- 1) the pBK vector
- 2) a lac promoter and a CMV promoter (see comment below)
- 3) beta-lactamase.

Traverse of the election of species is based on the fact that claims of Group I encompass use of vectors comprising a promoter operable in a prokaryotic cell (a "prokaryotic promoter"), which vectors encompass vectors comprising both a prokaryotic promoter and a promoter operable in a eukaryotic cell (a "eukaryotic promoter"). For example, independent claims 1 and 4 each recite use of a vector "comprising" a promoter that provides for expression of a fusion

protein in a bacterial cell, with dependent claims 3 and 8 indicating the vector comprises a mammalian promoter and a bacterial promoter. In an effort to be fully responsive, applicants here elect a species of prokaryotic promoter and a species eukaryotic promoter.

Of the claims of Group I as elected above, the following claims encompass the elected species: 1, 3, 4-6, 8, 9-17, 21 and 22. At least the following claims are generic (that is, are not limited to any one of the elected species): 1, 9, and 21.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815 attorney docket number 6514-090US1.

Respectfully submitted,  
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Date: June 2, 2003

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